



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0118; FRL- 9642-9]

Approval and Promulgation of Implementation Plans;

Alabama: Removal of State Low-Reid Vapor Pressure Requirement for the Birmingham Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve, through parallel processing, a draft revision to the Alabama State Implementation Plan (SIP), submitted by the Alabama Department of Environmental Management (ADEM), on January 10, 2012. The proposed revision modifies Alabama's SIP to move Chapter 335-3-20 "Control of Fuels," which includes the regulation that governs the State's 7.0 pounds per square inch (psi) requirement for the low-Reid Vapor Pressure (RVP) fuel program in Jefferson and Shelby Counties (hereafter referred to as the "Birmingham Area") from the active measures portion of the Alabama SIP to the contingency measures portions of the maintenance plans for the Birmingham Area for the ozone national ambient air quality standards (NAAQS or standards), and of the proposed maintenance plans for the 1997 annual fine particulate matter (PM_{2.5}) standards, and the 2006 24-hour PM_{2.5} standards, if finalized. If this change to the SIP is finalized, the federal RVP requirement of 7.8 psi will apply for the Birmingham Area. EPA is proposing to approve this SIP revision because the State has demonstrated that it is consistent with section 110 of the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0118, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: benjamin.lynorae@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: EPA-R04-OAR-2012-0118, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2012-0118. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through

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Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to

4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

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I. What is Parallel Processing?

Consistent with EPA regulations found at 40 CFR Part 51, Appendix V, section 2.3.1, for purposes of expediting review of a SIP submittal, parallel processing allows a state to submit a plan to EPA prior to actual adoption by the state. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action, and prepares a notice of proposed rulemaking. EPA's notice

of proposed rulemaking is published in the Federal Register during the same time frame that the state is holding its public process. The state and EPA then provide for concurrent public comment periods on both the state action and federal action.

If the revision that is finally adopted and submitted by the State is changed in aspects other than those identified in the proposed rulemaking on the parallel process submission, EPA will evaluate those changes and if necessary and appropriate, issue another notice of proposed rulemaking. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the state and submitted formally to EPA for incorporation into the SIP.

On January 10, 2012, the State of Alabama, through ADEM, submitted a request for parallel processing of a draft SIP revision that the State had already taken through public comment. ADEM requested parallel processing so that EPA could begin to take action on its draft SIP revision in advance of the State's submission of the final SIP revision. As stated above, the final rulemaking action by EPA will occur only after the SIP revision has been: (1) adopted by Alabama, (2) submitted formally to EPA for incorporation into the SIP; and (3) evaluated by EPA, including any changes made by the State after the January 10, 2012, draft was submitted to EPA.

II. What is the Background of the RVP Requirement?

The following subsections of this proposed rulemaking summarize both the federal and state RVP requirements in the Birmingham Area. Volatility is the property of a liquid fuel that defines its evaporation characteristics. RVP is an abbreviation for "Reid vapor pressure," a common measure of and generic term for gasoline volatility. Pursuant to the CAA, EPA regulates the vapor pressure of gasoline sold at retail stations during the high ozone season (June

1 to September 15) to reduce evaporative emissions from gasoline that contribute to ground-level ozone and diminish the effects of ozone-related health problems.

A. Background for the Federal Requirement for RVP for the Birmingham Area

Section 211(h) of the CAA requires EPA to set a maximum RVP standard of 9.0 psi during the high ozone season, which is defined as June 1st through September 15th of each year. *See also* 40 CFR 80.27. The CAA provides for more stringent requirements to be established for ozone nonattainment areas. Specifically, CAA section 211(h) states:

Not later than 6 months after November 15, 1990, the Administrator shall promulgate regulations making it unlawful for any person during the high ozone season (as defined by the Administrator) to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch (psi). Such regulations shall also establish more stringent Reid Vapor Pressure standards in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control and economic factors.

In accordance with CAA section 211(h), EPA established a two-phase reduction in high ozone season commercial gasoline volatility. These rules focus on reducing gasoline emissions of volatile organic compounds (VOC). VOC and nitrogen oxides (NO_x) are precursors for ground-

level ozone. Phase I was applicable to calendar years 1989 through 1991. Depending on the state and month, gasoline RVP was not to exceed 10.5 psi, 9.5 psi, or 9.0 psi. *See* 54 FR 11868 (March 22, 1989). Phase II was applicable to calendar years 1992 and later. Depending on the state and month, gasoline RVP may not exceed 9.0 psi or 7.8 psi. *See* 55 FR 23658 (June 11, 1990). A current listing of the RVP requirements for states can be found on EPA's website at: <http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/standards.htm>.

The Birmingham Area was originally classified as a 1-hour ozone nonattainment area by EPA on March 3, 1978 (43 FR 8962). The Birmingham nonattainment Area at that time was geographically defined as Jefferson County, Alabama. On November 6, 1991, by operation of law under section 181(a) of the CAA, EPA classified the Birmingham nonattainment area as a marginal nonattainment area for the 1-hour ozone and added Shelby County to the nonattainment area (56 FR 56693). The nonattainment classification for the Birmingham marginal ozone area was based on ambient air sampling measurements for ozone made during 1987-1989. As an ozone nonattainment area, the Birmingham Area was subject to the federal RVP requirements of 7.8 psi for both Jefferson and Shelby Counties. Subsequently, in 2001, EPA approved a state fuel program that imposed a 7.0 psi requirement for this area, under section 211(c)(4)(C) of the CAA. The action being proposed today would move the 7.0 psi requirement from the active portion of the Alabama SIP to the contingency measures portion of the maintenance plans for the ozone, 1997 PM_{2.5} and 2006 PM_{2.5} NAAQS. Throughout this proposed rulemaking, EPA's reference to the maintenance plans for the 1997 PM_{2.5} and 2006 PM_{2.5} NAAQS is in reference to the proposed maintenance plans as these plans have been proposed for approval by EPA but have not yet been finalized.

B. Background for the State Requirement for RVP in the Birmingham Area

Section 211(c)(4)(C) of the CAA allows states to seek a waiver from EPA to adopt into the federally-approved SIP, a state fuel program that is more stringent than federal requirements. Specifically, CAA section 211(c)(4)(C)(i) states:

A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 7410 of this title so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements. The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measure that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable. The Administrator may make a finding of necessity under this subparagraph even if the plan for the area does not contain an approved demonstration of timely attainment.

As mentioned above, the Birmingham Area was designated as a marginal 1-hour ozone nonattainment area on November 6, 1991. *See* 56 FR 56693. Marginal 1-hour ozone nonattainment areas such as the Birmingham Area were required to attain the 1-hour ozone NAAQS no later than November 15, 1993. However, the Birmingham Area did not attain the 1-hour ozone NAAQS by the required deadline and thus, EPA issued a SIP Call for Alabama to develop and submit a plan on how the Area would comply with the 1-hour ozone NAAQS as expeditiously as practicable. This plan, also known as an attainment demonstration, contained the control strategies and underlying regulations that Alabama would use to come into compliance with the 1-hour ozone NAAQS. On November 1, 2000, ADEM submitted the 1-hour ozone attainment demonstration for the Birmingham Area as a revision to the Alabama SIP. Among other control strategies and regulations, this attainment demonstration included a request for EPA to approve Alabama's regulation to establish requirements for low sulfur and low-RVP requirements for the Birmingham Area pursuant to 211(c)(4)(C)(i).

In a final rulemaking on November 7, 2001 (66 FR 56218), EPA determined that Alabama's November 1, 2000, SIP revision contained the necessary data and analyses to support a finding under section 211(c)(4)(C)(i) that the State's low sulfur and low-RVP requirements were necessary for the Birmingham Area to achieve the 1-hour ozone NAAQS. In summary, Alabama's low sulfur/low-RVP fuel program required that all gasoline sold during the control period (June 1st through September 15th) in the Birmingham Area contain a maximum RVP of 7.0 psi and maximum sulfur levels of 150 parts per million volume-weighted average. Alabama's control on sulfur applied only through the summer of 2003. After that time, federal controls on sulfur in gasoline went into effect. There was no termination date for the low-RVP portion of Alabama's fuel regulation.

The Birmingham Area subsequently attained the 1-hour ozone NAAQS and was redesignated for that NAAQS on March 12, 2004. *See* 69 FR 11798. At that time, ADEM included the 7.0 psi RVP requirement in its maintenance plan. Thereafter, the Birmingham Area was designated as a nonattainment for the more stringent 1997 8-hour ozone NAAQS, effective June 15, 2004 (69 FR 23858). On May 12, 2006 (71 FR 27631), the Birmingham Area was redesignated to attainment for the 1997 8-hour ozone NAAQS.¹ As part of the requirement to be redesignated to attainment, ADEM developed a maintenance plan pursuant to CAA section 175A(a) that demonstrated the Area would maintain the 1997 8-hour ozone NAAQS for at least 10 years after redesignation. In that maintenance demonstration, ADEM, in its emissions projections, adopted a conservative approach to the fuel requirement in the Area by assuming a high ozone season RVP requirement of 9.0 psi as opposed to 7.0 psi.² The State demonstrated that the Area could continue to maintain the ozone NAAQS with the 9.0 psi requirement. Nonetheless, the State's RVP requirement of 7.0 psi remains in the active portion of the SIP, and the federal RVP requirement of 7.8 psi also remains applicable through 40 CFR 80.27.

On January 10, 2012, ADEM submitted a draft revision to Alabama's SIP to move Chapter 335-3-20 "Control of Fuels" from the active measures portion of the Alabama SIP to the contingency measures portions of the maintenance plans for the applicable ozone and PM_{2.5} NAAQS. ADEM explained that the 7.0 psi requirement would be moved to the maintenance plans as a contingency measure for the ozone NAAQS, the annual 1997 PM_{2.5} standard and the

¹ On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS – also known as the 2008 8-hour ozone NAAQS. Currently, the Agency is reviewing individual area's compliance with the revised 8-hour ozone NAAQS and anticipates completing a designation process in the Spring of 2012. Today's rulemaking is not related to the 2008 8-hour ozone NAAQS, however, EPA notes that 2008-2010 and preliminary 2009-2011 monitoring data suggests that the Birmingham Area is attaining the 2008 8-hour ozone NAAQS.

² The Birmingham Area was also designated nonattainment for the 1997 PM_{2.5} and the 2006 PM_{2.5} NAAQS. In association with these redesignation request, EPA proposed to approve maintenance plans which assume a high ozone season RVP requirement of 7.8 psi as opposed to the State requirement of 7.0 psi.

2006 24-hour PM_{2.5} standards; however, it would be removed from the SIP as an active requirement. The applicable RVP would then be the federal standard of 7.8 psi. Because the state RVP requirement of 7.0 psi is a part of the federally-approved SIP for Alabama, the State must meet the requirements of CAA section 110(l) to move this state-level RVP requirement from the active measures portions of the SIP to the contingency measures portions of the affected maintenance plans. More details on CAA section 110(l) requirements are provided below.

III. What Are the Section 110(l) Requirements?

EPA's primary consideration for determining the approvability of Alabama's January 10, 2012, draft SIP revision is whether this requested action complies with section 110(l) of the CAA. Section 110(l) of the CAA states:

Plan Revision – Each revision to an implementation plan submitted by a State under this chapter shall be adapted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter. 42 U.S.C. § 7410(l).

Because the RVP requirements currently are a part of the SIP, the revision must meet the requirements of CAA section 110(l). Alabama's January 10, 2012, draft SIP revision is requesting only that the state-level requirement of 7.0 psi be moved from the active measures portions of the Alabama SIP to the contingency measures portions of the maintenance plans for

the ozone NAAQS, the annual 1997 PM_{2.5} standards and the 2006 24-hour PM_{2.5} standards.

Therefore, as part of Alabama's SIP revision request to change its RVP requirement, Alabama must demonstrate that the revision will not interfere with the attainment or maintenance of any of the NAAQS or any other applicable requirement of the CAA.

Developing what is necessary for a SIP revision to comply with section 110(l) is a case-by-case determination based upon the circumstances of each revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which the EPA has not yet made designations. The specific elements of the SIP revision depend on the circumstances and emissions analyses. The State's request does not involve a modification of the 7.8 psi federal RVP requirement, which is separately applicable by federal regulation (40 CFR 80.27) to both Jefferson and Shelby Counties. Thus, EPA's proposed approval action considers the potential impacts with regard to a difference in RVP requirements for the Birmingham Area between the state-level requirement of 7.0 psi and the federal-level requirement of 7.8 psi. EPA's analysis of Alabama's January 10, 2012, draft SIP revision is provided below.

IV. What is EPA's Analysis of Alabama's Submittal?

ADEM submitted a draft revision to the Alabama SIP on January 10, 2012, for parallel processing. The purpose of Alabama's January 10, 2012, draft SIP revision is to move the state-level RVP requirement of 7.0 psi from the active measures portions of the SIP to the contingency measures portions of the SIP. The applicable RVP requirement would then be the federal 7.8 psi requirement and the 7.0 psi state-level requirement would be a part of the maintenance plans as contingency measures for the NAAQS discussed above. The State is not seeking a change to the

federal RVP requirements of 7.8 psi that are applicable to the Birmingham Area.

Alabama's January 10, 2012, draft SIP revision includes an evaluation of the impact that the removal of the 7.0 psi state-level RVP requirement would have on the applicable NAAQS. For the purposes of this change, EPA is making the preliminary determination that the applicable NAAQS³ of interest for the noninterference demonstration required by section 110(l) of the CAA are the ozone, particulate matter and nitrogen oxides (NO₂) standards because the RVP requirements results primarily in emissions benefits for VOCs and NO_x. VOCs and NO_x emissions are precursors for ozone and particulate matter, and NO₂ is a component of NO_x. There are no emissions reductions attributable to the emissions of carbon monoxide (CO), lead and sulfur dioxide (SO₂) from RVP requirements. As a result, there is no information indicating the proposed revision would have any impact on those NAAQS. Additionally, the Birmingham Area is currently designated attainment for the CO, lead and SO₂ NAAQS, and is continuing to attain these standards. Therefore, the analysis below focuses on the impact of Alabama's changes to the RVP requirements on the ozone, particulate matter and NO₂ NAAQS.

a. Overall Preliminary Conclusions for Non-interference Analyses for Alabama's RVP Change

In Alabama's January 10, 2012, draft SIP revision, the State provided a technical demonstration to support the request to move Alabama's 7.0 psi RVP requirement from the active measures portions of the Alabama SIP to the contingency measures portions of the affected maintenance plans. In that technical demonstration, Alabama provided information regarding the emissions trends from the maintenance plans for the ozone and PM_{2.5} NAAQS. To

³ The six NAAQS that EPA establishes health and welfare based standards are CO, lead, NO₂, ozone, particulate matter, and SO₂.

determine these emissions, Alabama took a conservative approach and assumed a high ozone season RVP requirement for the Birmingham Area of 9.0 psi in the ozone maintenance plan and 7.8 psi in the maintenance plans for the 1997 annual and 2006 24-hour PM_{2.5} standards. All of these maintenance plans, which included modeling, indicated future emissions projections under the baseline “attainment” level emissions without the emissions reductions associated with the state-level 7.0 psi RVP requirements.

In Alabama’s January 10, 2012, draft SIP revision, ADEM also provided an updated analysis utilizing the Motor Vehicle Emissions Simulator (MOVES) modeling to evaluate the potential impacts for the ozone NAAQS that might result exclusively from changing the high ozone season RVP requirements from the state-level requirement of 7.0 psi to the federal requirement of 7.8 psi. Specifically, ADEM compared what the projected emissions in the year 2012 (the year the program is requested to be rescinded), would be, assuming a RVP level of 7.0 psi and 7.8 psi. The comparison revealed a slight increase in emissions of 25 tons for NO_x and 60 tons for VOC (cumulative over the entire season) would result from the change to the federal requirement from June 1st through September 15th. While the modeling showed a slight increase in NO_x and VOC emissions resulting from the use of 7.8 psi RVP as opposed to 7.0 psi, the most appropriate analysis for purposes of evaluating non-interference is whether total area emissions in the future years would remain at or below the level determined to be consistent with maintenance of the NAAQS. To provide this full evaluation, the State compared emissions generated for the year 2011, using a RVP of 7.0 psi to emissions generated for the years 2012 and 2015, using a RVP of 7.8 psi. Table 1 below provides the results of this analysis.

Table 1: Comparative Emissions for Change to RVP

	2011 7.0 psi RVP (tons)	2012 7.8 psi RVP (tons)	2015 7.8 psi RVP (tons)
NO_x	6511 [*]	5819 [*]	4429 [*]
VOC	2764 [*]	2593 [*]	2081 [*]

^{*}Emissions are total from June 1 through September 15.

As Table 1 clearly indicates, NO_x and VOC emissions in the Birmingham Area will continue to decrease, even with the increase in high ozone season fuel RVP to 7.8 psi. The slight increase in emissions is being mitigated area-wide by a steady decrease in tailpipe emissions, which is the result of cleaner new vehicle fleet replacing the older fleet. As discussed below, based on this data, together with air quality data, and maintenance demonstrations and attainment designations for the NAAQS, EPA is making the preliminary determination that the slight increase in NO_x and VOC emissions resulting from this change will not interfere with the Area's ability to attain and maintain the NAAQS, or any other applicable requirement. More details on the individual non-interference analyses for the ozone, PM_{2.5} and NO₂ NAAQS are provided below.

b. Non-interference Analysis for the Ozone NAAQS

Effective June 15, 2004, the Birmingham Area was designated as nonattainment for the 1997 8-hour ozone NAAQS. The primary precursors for ozone are VOCs and NO_x emissions. As a previous 1-hour ozone nonattainment area, the Birmingham Area was already subject to the federal RVP requirements for high ozone season gasoline, and as mentioned above, the State

opted to implement a state-level RVP requirement for high ozone season gasoline to aid the Area with compliance with the ozone NAAQS. Although originally implemented for the 1-hour ozone NAAQS, these federal and state RVP requirements continued to apply to the Birmingham Area for the 1997 8-hour ozone NAAQS, and are still applicable for the Birmingham Area.

On January 27, 2006, ADEM submitted a redesignation request and maintenance plan for the 1997 8-hour ozone NAAQS. As part of the State's ozone maintenance plan, Alabama took a conservative approach to projecting its emissions inventories for the future projection years of 2009, 2015 and 2017 by assuming a level of 9.0 psi for RVP for high ozone season gasoline in the Birmingham Area. The intent of this conservative approach to developing the future projection year emissions was to demonstrate that the Birmingham Area could maintain the 1997 8-hour ozone standard without relying on the 7.0 psi state-level requirement for RVP in high ozone season gasoline. ADEM used the MOBILE6.2 mobile source emissions model to estimate the emissions. In the years 2015 and 2017, ADEM projected a reduction from the 2002 base year inventory of approximately 45 percent in NO_x emissions (in tons per summer day). The projected reduction of VOC emissions (in tons per summer day) for the years 2015 and 2017 is approximately a 20 percent from the 2002 base year emissions inventory.

There is an overall downward trend in ozone concentration in the Birmingham Area that can be attributed to regional and local programs/controls enacted in the Birmingham Area that have led to significant emissions reductions. On May 12, 2006 (71 FR 27631), EPA approved Alabama's 1997 8-hour ozone maintenance plan for the Birmingham Area and redesignated the Area to attainment for the 1997 8-hour ozone NAAQS. The Birmingham Area is continuing to

meet the 1-hour and 1997 8-hour ozone NAAQS,⁴ and is meeting the new 2008 8-hour ozone NAAQS, based on the 2008-2010 design value of 75 parts per billion (ppb). The 2008 ozone NAAQS is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 75 ppb or less. Based on preliminary monitoring data from 2009-2011, the Birmingham Area is continuing to meet the 2008 8-hour ozone NAAQS. More detail on the 2008 8-hour ozone NAAQS is provided below.

EPA established a more stringent 8-hour ozone NAAQS of 75 ppb on March 12, 2008. The Agency is currently in the process of determining areas' compliance with the 2008 8-hour ozone NAAQS, and has not yet completed the formal designation process. However, on December 9, 2011, EPA announced its preliminary intention regarding designations for nonattainment areas for the 2008 8-hour ozone NAAQS. EPA did not indicate the Birmingham Area as a potential nonattainment area for the 2008 8-hour ozone NAAQS. As stated above, although the Agency has not yet completed the designation process, EPA must still consider compliance with section 110(l) of the CAA. EPA, therefore, evaluated whether or not Alabama's requested change to its RVP requirements would interfere with attainment or maintenance of the 2008 8-hour ozone NAAQS. In doing so, EPA reviewed current monitoring data, which suggest that the Birmingham Area appears to be attaining the 2008 8-hour ozone NAAQS. The current design value for ozone for the Birmingham Area is 2008-2010 is 75ppb, while the preliminary 2009-2011 design value is 75 ppb for this Area. EPA also evaluated the potential increase in the VOC and NO_x precursor emissions, and whether it is reasonable to conclude that the requested change to Alabama's high ozone season RVP requirement (which would have the effect in the Area of reverting to the federal RVP requirement for high ozone

⁴ The air quality design value for the 8-hour ozone NAAQS is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration. The level of the 1997 8-hour ozone NAAQS is 0.08 parts per million (ppm). The 1997 8-hour ozone NAAQS is not met when the design value is greater than 0.08 ppm (0.085 ppm rounds up).

season fuel) would cause the Area to be out of compliance with the 2008 8-hour ozone NAAQS.

In light of the current designations, monitoring data and the submitted modeling, including the fact that the VOC and NOx emissions inventories are projected to continue to significantly decrease,⁵ EPA has preliminarily determined that Alabama's change to its RVP requirements for the Birmingham Area will not interfere with attainment or maintenance of the ozone NAAQS.

c. Non-interference Analysis for the Particulate Matter NAAQS

Effective April 5, 2005, the Birmingham Area was designated as nonattainment for the 1997 PM_{2.5} Annual NAAQS. The primary precursors for PM_{2.5} are NOx and sulfur oxides. VOC and ammonia can be determined to be precursors to PM_{2.5} formation on a case-by-case basis. For the Birmingham Area, neither the State of Alabama or EPA have made a determination that VOC and ammonia are significant precursors to the formation of PM_{2.5} in the Birmingham Area thus NOx and sulfur oxides are the precursors of interests in addition to direct PM_{2.5} emissions. In 2005 ADEM and Jefferson County Department of Health contracted with Envair to study the nature and potential causes of PM_{2.5} concentrations in the Birmingham Area. The study investigated the sources of particulate matter pollution in and around the North Birmingham and Wylam monitors. The study gave insight into the sources of particulate matter pollution in and around the North Birmingham and Wylam monitors. According to the findings of the study, sulfate and primary organic matter are the most important contributors to PM_{2.5} in the Birmingham Area. The results of the study indicate that the most effective control strategies to reduce PM_{2.5} concentrations in the Birmingham area include the reduction of regional and

⁵ Indeed, the future decreases in the inventory are an order of magnitude greater than the increases associated with the change in RVP.

urban/local emissions of SO₂. As mentioned earlier in this rulemaking, the RVP requirements result in emissions benefits for VOC and NO_x so EPA focused on these precursors for the analysis of the potential impact of Alabama's SIP change.

On May 13, 2009, ADEM submitted a redesignation request and maintenance plan for the 1997 PM_{2.5} Annual standards. As part of the State's 1997 Annual PM_{2.5} maintenance plan, Alabama took a conservative approach for developing its emissions inventory for the future projection years of 2009, 2015 and 2017 by assuming a level of 7.8 psi for RVP for high ozone season gasoline in the Birmingham Area. The intent of this conservative approach to developing the future projection year emissions was to demonstrate that the Birmingham Area could maintain the 1997 Annual PM_{2.5} standard without relying on the 7.0 psi state-level requirement for RVP in high ozone season gasoline. ADEM originally used the MOBILE6.2 mobile source emissions model to estimate the emissions but later updated these emissions with the MOVES mobile source emissions model. As discussed earlier the most effective way to reduce PM_{2.5} concentrations in the Birmingham area is to control SO₂ emissions. The projected reduction of SO₂ emissions (in tons per day) for the years 2012, 2015, 2018, 2021 and 2024 is approximately 58 percent from the 2009 base year emissions inventory. As Table 2 indicates the PM_{2.5} annual design value has been decreasing. The overall downward trend in PM_{2.5} concentration in the Birmingham area can be attributed to regional and local programs/controls enacted in the Birmingham area that have led to significant emission reductions.

Table 2: PM_{2.5} Annual Design Values

Year	2005-2007	2006-2008	2007-2009	2008-2010
Design Value*	18.7	17.3	15.1	13.7

*The air quality design value for the PM_{2.5} 1997 annual standard is 15.0 micrograms per cubic meter (µg/m³).

On June 29, 2011 (76 FR 38023), EPA made a determination that the Birmingham PM_{2.5} nonattainment area has attained the 1997 annual PM_{2.5} standard and on November 10, 2011 (76 FR 70078), EPA proposed to approve Alabama's 1997 Annual PM_{2.5} maintenance plan for the Birmingham Area and redesignate the Area to attainment for the 1997 Annual PM_{2.5} NAAQS. EPA did not receive any comments on the proposed rulemaking to redesignate this Area to attainment for the 1997 Annual PM_{2.5} standards.

On June 17, 2010, ADEM submitted a redesignation request and maintenance plan for the 2006 24-hour PM_{2.5} standards. As part of the State's 2006 24-hour PM_{2.5} maintenance plan, Alabama took a conservative approach for developing its emissions inventory for the future projection years of 2012, 2015, 2018, 2021 and 2024 by assuming a level of 7.8 psi for RVP for high ozone season gasoline in the Birmingham Area. The intent of this conservative approach to developing the future projection year emissions was to demonstrate that the Birmingham Area could maintain the 2006 24-hour PM_{2.5} standards without relying on the 7.0 psi state-level requirement for RVP in high ozone season gasoline. ADEM used the MOVES mobile source emissions model to estimate the emissions. As Table 3 indicates the PM_{2.5} 24-hour design value has been decreasing. The overall downward trend in PM_{2.5} concentration in the Birmingham Area can be attributed to regional and local programs/controls enacted in the Birmingham Area that have led to significant emission reductions.

Table 3: PM_{2.5} 24-hour Design Values

Year	2005-2007	2006-2008	2007-2009	2008-2010
Design Value	44	39	34	29

On September 20, 2010 (75 FR 57186), EPA made a determination that the Birmingham PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} standard and on November 10, 2011 (76

FR 70091), EPA proposed to approve Alabama's 2006 24-hour PM_{2.5} maintenance plan for the Birmingham Area and redesignate the Area to attainment for the 2006 24-hour PM_{2.5} standards. EPA did not receive any comments on the proposed rulemaking to redesignate this Area to attainment for the 2006 24-hour PM_{2.5} NAAQS

In light of the proposed designation, monitoring data and the submitted modeling, including the fact that the VOC and NO_x emissions inventories are projected to continue to significantly decrease, EPA has preliminarily determined that Alabama's change to its RVP requirements for the Birmingham Area will not interfere with attainment or maintenance of the 1997 PM_{2.5} annual or the 2006 24-hour PM_{2.5} standards.

d. Non-interference Analysis for the 2010 NO₂ NAAQS

On January 20, 2012, EPA finalized designations for 2010 NO₂ NAAQS. Alabama was designated unclassifiable/attainment, including the Birmingham Area, for the 2010 NO₂ NAAQS. Also, EPA evaluated the potential increase in the NO_x emissions (approximately a quarter of a ton per day between June 1st and September 15th) and whether it is reasonable to believe that Alabama's change for its high ozone season RVP requirement (which has the effect of reverting the Area to the federal RVP requirement for high ozone season fuel) would cause the Area to be out of compliance with the 2010 NO₂ NAAQS. The slight increase in NO_x emissions is being mitigated by a steady decrease in tailpipe emissions, which is the result of cleaner new vehicle fleet replacing the older fleet. In light of the current designation, monitoring data and the submitted modeling, including the fact that NO_x emissions inventories are projected to continue to significantly decrease, EPA has preliminarily determined that Alabama's change to its RVP

requirements for the Birmingham Area will not interfere with the continued decline in NO_x emissions, nor with attainment or maintenance of the 2010 NO₂ NAAQS.

V. Proposed Action

EPA is proposing to approve Alabama's January 10, 2012, SIP revision regarding the State's regulation at Chapter 335-3-20 "Control of Fuels" which identifies Alabama's 7.0 psi requirement for the low-RVP fuel program in the Birmingham Area (i.e., Jefferson and Shelby Counties). Specifically, Alabama's January 10, 2012, proposed SIP revision moves the State's 7.0 psi requirement for low-RVP fuel program in the Birmingham Area from the active measures portion to the contingency measures portions of the maintenance plans for ozone standards, the annual 1997 PM_{2.5} standard and the 2006 24-hour PM_{2.5} standard. This action, if finalized, would result in applicability of the federal RVP requirement of 7.8 psi for the Birmingham Area.

VI. Statutory and Executive order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian

country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: February 24, 2012

Signed: A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

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